

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O.O.C.J.

NOTICE OF MOTION NO.803 OF 2004

IN

SUIT NO.974 of 1981

...

Mankubai Govind Vaity ...Plaintiff

v/s.

Bhiva Dharma Vaity

and others. ...Defendants

...

Mr.Prashant Sarwankar i/b G.S. Bhatt for the
Plaintiff.

Mr.A.V.Saxena i/b K.K.Tated for Defendant No.3.

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CORAM: D.K.DESHMUKH, J.

DATED: 2nd December, 2004

P.C.:

1. This Notice of Motion is taken out by the

Plaintiff for restoration of the suit which was dismissed for default. The learned Counsel appearing for the Plaintiff states that the Defendants are served. He undertakes to file affidavit of service within one week from today. Except Defendant No.3, other Defendants are not appearing. None of the Defendants have filed any affidavit in reply. Therefore, in the absence of any affidavit in reply, accepting the averments made in the affidavit filed in support of the Notice of Motion at their face value, this Notice of Motion is granted in terms of prayer clauses (a) and (b).

2. The learned Counsel appearing for the Plaintiff has expressed willingness to deposit an amount of Rs.10000/- (Rupees Ten thousand only) towards costs of this motion to the credit of this suit, within a period of two weeks from today. The deposit of the costs is condition precedent.

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